

UNITED STATES DISTRICT COURT

for the

District of OregonPortland DivisionCase No. 2:23-cv-874 AR
(to be filled in by the Clerk's Office)Omar Michael Carroll III

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

State of Oregon
Oregon Board of Parole
Oregon Department of Corrections

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS
(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name Omar Michael Carroll III
 All other names by which
 you have been known: N/A
 ID Number S.I.D. # 7070760
 Current Institution Snake River Correctional
 Address 777 Stanton Blvd.
Ontario OR 97914-8335
City State Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name
 Job or Title (*if known*) Office of The Governor
 Shield Number
 Employer
 Address 900 Court Street N.E.
Salem OR 97301-4075
City State Zip Code
☐ Individual capacity ☒ Official capacity

Defendant No. 2

Name
 Job or Title (*if known*) Oregon Board of Parole and
Post Prison Supervision
 Shield Number
 Employer State of Oregon
 Address 1321 Tandem Ave. N.E.
Salem OR 97301-0379
City State Zip Code
☐ Individual capacity ☒ Official capacity

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Defendant No. 3

Name

Job or Title (if known)

Shield Number

Employer

Address

Oregon Department of Corrections

State of Oregon

2575 Center St, N.E.

Salem

City

OR

State

97301

Zip Code

☐ Individual capacity☒ Official capacity

Defendant No. 4

Name

Job or Title (if known)

Shield Number

Employer

Address

City

State

Zip Code

☐ Individual capacity☐ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐ Federal officials (a *Bivens* claim)

☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Liberty, Pursuit of Happiness ... part of the Inalienable Rights.

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

N/A

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

see Additional Pages.

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☐ Other (explain) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

see Additional Pages.

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

The O.D.O.C.'s lack of programming to address the Board of Parole's concerns.

From TV 1

The Board of Parole has been using their Rule A2 to find fault with us. This Rule includes, but is not limited to, Psychological issues.

I took those faults to "The Brain People" [B.H.S.], starting in 2010, who refused me. At that time, I was at the facility at Umatilla, called Two Rivers Correctional [T.R.C.I.]

I managed to get transferred out of that facility, and took up the battle at Snake River Correctional [S.R.C.I.], in Ontario.

I ran into similar problems, as well; especially when my Reactive Case Manager told me 'Transfers for programs will not be approved.'

I Grieved B.H.S., and got nowhere. I wrote the Assistant Director of the O.D.C.C., and asked for his help. Even a program suggested by his Office I was denied access to by my R.C.M., because my risk of re-offending was too low.

I informed the Assistant Director, and he did nothing. Nor did he identify ANY programs that deal with the Psychological issues.

At one point, I received a Communication from the facility I was at that told me to have my family find programs for me. Since the Governor at that time identified as a Doctor; I wrote him, sending a copy of that, and asked him to commute my sentence, since the O.D.C.C. wanted me to have my family get me programs.

I communicated with a few Governors my concerns about the Parole Board. I received nothing but denials from them.

I sent a lot of documentation of my pursuit of programming to the Board of Parole. At one point, they faulted me for sending more than 200 pages. Still, they fault me for not seeking out, or benefitting from, programs.

C. What date and approximate time did the events giving rise to your claim(s) occur?

Mid-2009 To present.

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

See Additional Pages.

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

mental, and psychological : Because of this abuse, I have a hard time trusting the state's Authorities.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

See Additional Pages

Relief SoughtFrom Section III

The Department of Corrections thought that fining us for rule infractions would help deter rule infractions. Because ignorance of the law (or rules) is no excuse, and the D.O.C. knows the standards the Board of Parole have put down, because they are listed in O.A.R. 255.062; because the D.O.C. says they have programs, but, in fact, do not; I am requesting the following:

From the State:

- The full financing for the program proposed in this complaint.

From the Board of Parole:

- \$150 - a-day since 1/13/2012, for that is when I informed them of no programming.
 - This is more than \$623 thousand, and counting.
- After this complaint: \$100 - a-month until I am released.

From the Department of Corrections:

- An additional \$150 - a-day since 1/13/2012.
 - This is an additional \$623 thousand, and counting.

- No Cost of Care.
 - O.R.S. 179,701/O.A.R. 291,203
- No work requirement. (O.A.R. 291.077.0010(3)(a))
 - I will volunteer to continue on being the Aide to the person I currently am the Aide of.
 - After him, no work assignments.
 - As well, after I am no longer needed as an Aide to this individual, currently; I will be given Single Cell status for as long as I am in the O.D.C.C.
 - No dorms, either.
- The proposed program.
- An additional \$100-a-month until I am released.
 - If The Board, or the D.O.C., doesn't post the \$100 by the end of the month, the monthly amount will then double.
 - If either the Board, or the D.O.C. does not give me their monthly amount for 6 months, That Organization will release (not Parole) me.

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

*Two Rivers Correctional / Snake River Correctional
Oregon Department of Corrections*

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☒ No

☐ Do not know

If yes, which claim(s)?

The Grievance System only covers the Individual Facilities, not the O.D.O.C., not the Parole Board.

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance?

Snake River Correctional

2. What did you claim in your grievance?

I need the Psychological Issues the Parole Board is using to keep me inside to be resolved.

3. What was the result, if any?

Denied.

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

1st and 2nd Level of Appeal.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

The Parole Board is outside the facility, as is
the O.D.O.C.

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

Mr. Gower, Ass't. Director, O.D.O.C.
Oregon Board of Parole.

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

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☐ Yes

☒ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

The Program

- The Program's purpose will be to put into Remission all of an individual's issues, as identified by the Board of Parole.
- The Program will have both a Psychologist and a Psychiatrist assigned to it.
 - The Program will have unlimited access to what is needed to put an individual's identified issues into Remission.
- The Program will be open to all genders.
- The Program will be an In House program, on one Housing Unit.
 - The Program will pay each participant a P.R.A.S. Award of 8 points, daily; so they can focus on the program. (O.R.S. 423.020(1)(c))
 - If a participant is working, the 8 points will be figured in to their total monthly P.R.A.S. award.
 - The Program will have access to all programs and privileges the facility has. This includes Recreation, Religious, and Incentive Programs.

- The Program will have, at a participant's request, available all the standards it, and the Board of Parole, uses to define Diagnoses, and what their Remissions are; including, but not limited to, the D, S, M.

The Board of Parole will:

- Upon each participant's entry into the program, communicate with the program all of the concerns they have of the participant.

- The participant will be present at that conversation.

- When the Psychological Professionals agree that the concerns are in Remission, they will inform the Board of Parole of the Remission, and the Board of Parole will schedule an Exit Interview for the participant using solely the program's Remission report.

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 6/12/23

Signature of Plaintiff Omar Michael Carroll III

Printed Name of Plaintiff Omar Michael Carroll III

Prison Identification # #7070760

Prison Address 777 Stanton Blvd.

Ontario OR 97914-6335
City State Zip Code

B. For Attorneys

Date of signing: _____

Signature of Attorney _____

Printed Name of Attorney _____

Bar Number _____

Name of Law Firm _____

Address _____

City State Zip Code

Telephone Number _____

E-mail Address _____